IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.08.2006

CORAM

THE HON'BLE MR.JUSTICE R.BALASUBRAMANIAN
&
THE HON'BLE MR.JUSTICE S.MANIKUMAR

H.C.P.NO.755 OF 2006

S.Muniamma ..Petitioner

Vs.

1.The Superintendent of Police
Cuddalore
2.The Inspector of Police
Panruti Police Station
Cuddalore District
3.Arivalagan ..Respondents

Prayer: Writ petition under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the third and second respondents herein to produce the detenue Vishnuprasad S/o M.G. Swamikannu residing at 315 Jeevanantham Street, Sadanandapuram Perungalathur, Chennai before this Court and set him at liberty.

For Petitioner : Mr.A.Mohan

For R1 and R2 : Mr.M.Babu Muthu Meeran, APP
For Detenue : Mr. T. Sivagnanasambandam

ORDER

(Order of the court was delivered by
Justice R.Balasubramanian)

This habeas corpus petition is yet to be listed for admission. However in the forenoon today, Mr.T.Sivagnanasambandam, learned counsel for the alleged detenu appeared before us and mentioned that he has brought the detenu before this court. Accordingly, we directed the listing of the case in the afternoon, after intimation to

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the learned counsel for the petitioner. Learned counsel for the petitioner is present. Admit. The petitioner is also present. The alleged detenu is also present. He states that he is 35 years old. However, his mother states that he is only 29 years old. Whatever it is, he is a major. When we asked him as to why he had gone away from his mother's house, he explained that as he was without employment for quite a long time, he had been trying on his own to get some employment with the help of his friend by name Ananthakrishnan, a resident of Panruti and without disclosing his movement to his parents, he took shelter with his friend Ananthakrishnan, from where he was trying to have an employment fixed for him and that he is not in the illegal custody of anybody, including the third respondent, who happens to be the cousin of the said Ananthakrishnan. The petitioner, who is present in court, identified the alleged detenu as her son. The detenu is a major. He is willing to go back with his mother. The detenu had also filed an affidavit. Since the alleged detenu is found to be not in the illegal detention of anybody, we set him at liberty to decide his way of life. It is for him to go with his mother or not.

2. At 4.30 p.m. today, learned counsel appearing for the petitioner mentioned the following facts :-

> "The detenu, out of fear and threat from unruly elements had filed the affidavit stating that he was not kidnapped at all; the unruly elements were behind him throughout, till this court disposed of the Habeas Corpus Petition acting on the affidavit; learned counsel for the petitioner came to know, when he enquired the detenu after the habeas corpus petition was disposed of, that he had suffered extensive injuries at the hands of rowdy elements; those aspects could not be brought to the notice of this court only due to the presence of the rowdy elements behind him and therefore this court can consider re-opening the issue. "

We also enquired the detenu, who is present in court at this time. He says that he was brought before this court by unruly elements, who have given a threat to him that if he disclosed the truth his entire family would be ruined and that one of the person in that gang is an influential person.

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3. We are yet to sign the order, though we pronounced it in open court. In view of the disclosure made by the detenu, who is present before us, we want to find out where lies the truth and if he is under any force to make such a statement, which is not true, then Law must take its course. Till such time the Habeas Corpus Petition is heard, we want the detenu to be in safe custody. Under these circumstances we direct the learned Additional Public Prosecutor to send for the Station House Officer of B.4, Police Station, High Court, Chennai to his chamber, who in turn will take custody of the detenu as per court's order and keep him in their custody until further orders. If the detenu discloses any crime to them, they will register that complaint and refer the detenu to a hospital for treatment if need arises. The question whether B-4 Police Station would have territorial jurisdiction or not can be decided later on. Post tomorrow (18.8.2006). Print the name of Mr.Sivagnanasambandam for detenu in the cause list.

Dated: 17.08.2006

The order passed by us on 17.8.2006 at 2.30 p.m. stands recalled by the order passed by us on the same day at 4.30 p.m. on certain new facts brought to our notice by the learned counsel appearing for the petitioner. Having regard to the factual scenario brought to our notice by the detenu himself at 4.30 p.m. on 17.8.2006, we directed the detenu to be taken into custody for the present by the B-4 Police Station for his safety and if he gives any complaint to the said police, they must register it and act in accordance with law. We directed this H.C.P to be listed today morning and accordingly it is listed today. Mr.Sivagnanam, learned counsel, who appeared for the detenu, is present in Court. We wanted to find out from him as to who brought the detenu before him, for which he answered, Ananathakrishanan and Jayakumar brought the detenu to him and the detenu himself instructed him to prepare his affidavit, which was filed in Court. When we asked the detenu as to whether he personally furnished the information to the learned counsel appearing for him, which stand incorporated in his affidavit, he would state that he did not give the details, but only other persons, namely, 1) Arivalagan 2) Anantha Krishnan 3) Anantha Raman 4) Babu 5) Junior Paternal Uncle of Arivalagan 6) Manoharan and 7) Kannan (Senior Paternal uncle of Arivalagan), have given the details. The Station

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House Officer, B-4 Police Station is also present in Court. It appears that before him, the alleged detenu had given a complaint, which stands registered in Crime No.22 of 2006 for offences under Sections 147, 363, 344, 323, 384 and 506 (ii) I.P.C. The detenu had also been referred to the hospital and the accident register is also in the case diary. We perused the printed first information report in Crime No.22 of 2006 as well as the accident register. We do not say anything more on the merits at this stage. We are informed that the detenu is an inpatient in the hospital and he has been brought before us from the hospital. It is for the Station House Officer, B-4 Police Station to decide in consultation with hospital authorities as to whether the detenu should be continued to be in the hospital as an inpatient or not. We want to hear the H.C.P. on merits.

2. Learned Additional Public Prosecutor takes notice for first and second respondents. Notice to R3. We are issuing suo motu notice to other persons, whose names are mentioned before us by the detenu. The Registry is directed to issue notice returnable by 24.8.2006 to the following persons:

1) Arivalagan
2) Anantha Krishnan
3) Anantha Raman
4) Babu
5) Junior Paternal Uncle of Arivalagan
6) Manoharan

All are residing at No.11, Vadutheru Street, Thattampalayam, Panruti Taluk, Cuddalore District.

7) Kannan (Senior Paternal uncle of Arivalagan) residing at Narayanapuram, Chennai.

This order would not come in the way of the Station House Officer, B-4 Police Station, to pursue the investigation in Crime No.22 of 2006 in accordance with law.

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Post on 24.8.2006.

Dated: 18.08.2006

sl

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Superintendent of police Cuddalore

2. The Inspector of Police
Panruti Police Station, Cuddalore District.

3. The Public Prosecutor, High Court, Madras

4. The Station House Officer
B-4 Police Station, High Court, Chennai

5. The Section Officer,
Criminal Section
High Court, Madras
(Post on 24/08/2006)

+ one cc to Mr. A. Mohan, Advocate sr no. 36869

tej(co)
nm(19.08.2006)

H.C.P.No.755 of 2006

17/8/2006
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